

Exhibit C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Ancestry.com Operations Inc. et al.,)	Case No. 1:15-cv-00737-SSB-SKB
)	
Plaintiffs,)	Judge Sandra S. Beckwith
)	
vs.)	Magistrate Judge Stephanie K. Bowman
)	
DNA Diagnostics Center, Inc.,)	
)	
Defendant.)	

**Declaration of David Silver in Support of
DDC's Objections to Magistrate's Report and Recommendation**

1. I am the Vice President of Marketing for DDC, and I have been actively involved in marketing at DDC since I joined the company in 2011.
2. Page 7 of the Magistrate Judge's Report and Recommendation (the "R&R") includes a screenshot of a Facebook ad about a Groupon deal for the AncestrybyDNA test.
3. Clicking the link in the Facebook ad to place an order would have opened the actual Groupon ad at www.groupon.com, which would have identified both DDC's "AncestrybyDNA" brand name and the "DNA Origins" name.
4. So, for example, today, on March 18, 2016, I located an old Facebook link to an AncestrybyDNA test Groupon ad, very similar to what was cited in the R&R. It appeared as follows:

 **Multicultural Familia via Groupon** 
October 7, 2015 · 

Get **65% OFF** on ancestry DNA tests for a limited time!



DNA Ancestry Test
Cheek swabs collect a DNA sample from the mouth; the lab sends back an ancestry breakdown by percentage, based on four population groups

WWW.GROUPON.COM [Shop Now](#)

 Priscilla Martínez

 Like  Comment  Share

5. I then clicked the “Shop Now” button in the bottom right hand corner of the link and was transported to the actual Groupon ad at www.groupon.com, which appeared as follows:

\$69 for a DNA Origins Test with an Online Results Manual from AncestrybyDNA (\$195 Value)

👍 59% of 692 customers recommend



\$69

NOT YET AVAILABLE

VALUE	DISCOUNT	YOU SAVE
\$195	65%	\$126

GIVE AS A GIFT

LIMITED QUANTITY AVAILABLE

Over 1,000 bought

SHARE THIS DEAL



In a Nutshell

Cheek swabs collect a DNA sample from the mouth; the lab sends back a breakdown by percentage, based on four population groups

The Fine Print

Promotional value expires 90 days after purchase. Amount paid never expires. Limit 3 per person, may buy 2 additional as gifts. Results and product manuals will be available online only. All services must be used by the same person. AncestrybyDNA™ all rights reserved. Merchant is solely responsible to purchasers for the care and quality of the advertised goods and services.

AncestrybyDNA
Company Website

A DNA test can tell you even more about your ancestors than the old shaman who appears in five generations of family wedding photos. Peek into the past with this Groupon.

\$69 for a DNA OriginsTest (\$195 Value)

Participants receive a DNA sample-collection kit containing cheek swabs and instructions for collecting samples from the inside of the mouth. Send the samples back to the lab, and after a six- to eight-week analysis, the lab returns a PDF certification detailing the customer's personal ancestral breakdown. The breakdown is based on four percentage groups: Indigenous American, European-South Asian, East Asian, and sub-Saharan African. The analysis also comes with a manual explaining the process and human migration history.

AncestrybyDNA

AncestrybyDNA helps customers trace their genetic roots to measure DNA markers on 22 pairs of chromosomes. It searches the full spectrum of ancestors for similar markers, which may span many geographical locations.

Everything you need comes in a simple, complete at-home kit which contains cheek swabs and instructions for collecting samples from the inside of the mouth—a more effective sample method than sending in everything you have ever touched. After you collect the DNA sample, the lab performs the test, and you will receive the results online.

6. As shown on the actual Groupon ad, DDC uses trademarks to sell its DNA tests such as ANCESTRYBYDNA and DNA ORIGINS. For more than a decade, DDC has never sold a DNA test under any purported “Ancestry DNA” or “DNA Ancestry” trademarks. Instead, DDC has used the phrases “Ancestry DNA” and “DNA Ancestry” as descriptive terms along with the trademarks under which DDC sells.

7. The Groupon ad above shows that the DNA test is sold under DNA Origins by AncestryByDNA. And the term "DNA Ancestry Test" is not a third trademark but rather describes the type of test sold, namely, a test to help you learn more about your ancestry through your DNA.

8. This is just like other descriptive, non-trademark terms to describe DNA tests, such as Paternity DNA Test, Medical DNA Test, and Forensic DNA Test.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 18, 2016.



David Silver